

REMARKS

Reconsideration and allowance of the captioned application in view of the foregoing amendments and the remarks that follow is respectfully requested. These comments are intended to advance the case to issue without delay. The claims in the application were 1 and 3-27. By this amendment, no claims are cancelled or added. Accordingly, the claims in the application remains to be claims 1 and 3-27.

Claims 1, 3, 4, 7, 8, 10-13, 15, 18, 21 and 23 remain rejected under 35 USC §103(a) over Voss. In the present Office Action, the Examiner responds to applicants argument that in view of Voss one skilled in the art would not include an organic material that is a solvent for the chelator/amine mixtures as claimed in the present application. The Examiners response asserts that nowhere in the instant claims does applicant indicate a liquid antimicrobial composition. It is further stated that the composition is a solution which indicates that the composition is a homogenous mixture whether it be a liquid or solid and that "solid compositions can be solutions (homogenous mixtures)".

In response to the Examiner's maintained rejection in view of Voss, applicant kindly requests that the Examiner re-considers applicant's arguments filed on June 26, 2003 in light of the following additional points of clarification. The pending claims of the application are restricted to compositions "...comprising a solution in an organic solvent of a transition metal chelator anion and an organic cation...". As previously argued by applicant, it is respectfully submitted that Voss does not disclose compositions comprising such a solution (i.e. a solution in an organic solvent). It is true that chelator anions and organic cations are disclosed in Voss, as are amine oxides; however, there is no indication nor suggestion of a solution in an amine oxide solvent of a chelator anion and an organic cation. For the Examiner's reference, a definition of "solvent" taken from McGraw Hill's "Dictionary of Scientific and Technical Terms" is appended. There is no indication in Voss that the optional amine oxide may act as an organic solvent for a transition metal chelator anion and an organic cation as specified in the present application.

In the Examiner's previous issued Office Action dated April 3, 2003, it is stated that "it is well known in the art that amine oxides can function as solvents" and US 4,145,532, in which amine oxides are used to dissolve cellulose, is referred to. The Applicant strongly argues that this does not mean that an amine oxide is a solvent that would form a solution of a transition metal chelator anion and an organic cation as specified in the present application. Whilst both chemists and alchemists have searched long and hard for the universal solvent, none has yet been found. Just because amine oxide dissolves cellulose does not mean that it dissolves a mixture of the chelator cation and organic cation specified in the present application. There is no indication nor suggestion in the documents cited that an amine oxide would or could act as a solvent able to form a solution of a transition metal chelator anion and an organic cation, especially those specified in the present application. Accordingly, withdrawal of this rejection under 35 USC §103(a) is respectfully requested.

Claims 1, 3, 4, 8-12, 15, 16, 19, and 21-25 are rejected under 35 USC §102(b) as being anticipated by Kraskin (US 4,356,190). Kraskin is cited as teaching an antimicrobial composition to reduce malodor for use on the outer surface of the human body or on apparel worn in close proximity thereto comprising carrier material (lotion, cream, gel stick) and a salt of transition metal chelator comprising a solution in an organic solvent (glycerol, ethanol) of a transition metal chelator anion (DTPA) and an organic cation (diethanolamine).

Applicant respectfully submits that Kraskin does not disclose the particular organic cations as claimed in the present invention. The pending claims are restricted to compositions wherein "...the cation comprises a protonated or quaternised amine... [with] a C₁-C₁₀ terminal hydrocarbyl group. "Hydrocarbyl groups" are defined in the specification at page 6, lines 18-19, as being radicals containing solely carbon and hydrogen atoms. The organic 'cation' mentioned by the Examiner (diethanolamine) has -CH₂CH₂OH terminal groups; these are not "hydrocarbyl groups", as they each have an oxygen atom present. For this reason, it

is asserted that Kraskin does not anticipate the present invention. Accordingly, withdrawal of this rejection under 35 USC §102(b) is respectfully requested.

Claims 6, 7, and 14 are rejected under 35 USC §103(a) as being unpatentable over Kraskin (US 4,356,190) as applied to claims 1, 3, 4, 8-12, 15, 16, 19, and 21-25. Kraskin is said in the Office Action to teach all that is recited in claims 6, 7, and 14 except the amount of organic cation present to yield an aqueous solution of the chelator salt having a pH of between 6 and 8 and present at a level to neutralize at least 60% of the acid groups of the chelator anion.

The obviousness rejections of claims 6, 7, and 14 are moot in light of the novelty and inventiveness of the base claims. The inventiveness of claim 1 of the present invention finds extensive support in the Examples given in the specification. This inventiveness is not obvious in view of Kraskin, and thus claims 6, 7, and 14 which all depend on claim 1 are not obvious in view of Kraskin. Accordingly, withdrawal of this rejection under 35 USC §103(a) is respectfully requested.

Applicant notes the Examiner's indication that claims 5, 17, and 20 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim. However, in view of applicant's showing of novelty and inventiveness of claim 1 of the present invention, applicant respectfully submits that claims 5, 17, and 20 are not dependent upon a claim for which there is a valid reason for rejection and it is requested that these claims be allowed in their present form.

Claims 26 and 27 have been objected to for depending from cancelled claim 2. Applicant has amended claim 26 in this response, making claims 26 and 27 dependent from claim 1. Accordingly, withdrawal of this objection is respectfully requested.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kevin J. Stein", is written over a horizontal line.

Kevin J. Stein
Registration No. 47,966
Attorney for Applicant(s)

KJS/sa
(201) 840-2394